

Exhibit 4

From: Dunbar, Kelly P.
Sent: Thursday, June 26, 2014 4:30 PM
To: john.scott@texasattorneygeneral.gov; Clay, Reed
(Reed.Clay@texasattorneygeneral.gov)
Subject: Mitchell deposition

John and Reed:

With respect to Mr. Mitchell's deposition, Part I below outlines the topics or portions of topics for which OAG has designated Mr. Mitchell in its written objections.

Part II lists the slight modifications to OAG's designations that we requested and that Reed thought were reasonable, subject to discussing with John and Major Mitchell. The only outstanding issue, then, would be to limit the topics temporally as John and I agreed last week. We'd be amenable to limiting the topics temporally to the time period since Mr. Mitchell was deposed in the Section 5 litigation (I don't have that date in front of me). That limitation would cut across all of the topics.

Finally, Part III lists the documents that, again, Reed thought were reasonable to be produced prior to the deposition. Our agreement was to stand down on all other requests, subject to a right to seek additional documents depending on what we learn or don't at the deposition.

We are planning on going forward on July 8 at OAG for Mr. Mitchell, as I trust any remaining issues can be resolved.

Thanks very much, Kelly

* * *

I. TOPICS (OR PORTIONS OF TOPICS) TO WHICH OAG HAS ALREADY DESIGNATED MR. MITCHELL (SUBJECT TO OBJECTIONS AND PRIVILEGES) IN ITS WRITTEN OBJECTIONS:

• Topic 1: OAG designated Mr. Mitchell for 1(a),(b),(c). OAG Objections at 5.

Topic 1. Any and all complaints, allegations, referrals for investigation, investigations, charges, and/or prosecutions, either through the Texas Attorney General's office or in conjunction with local, county, or municipal law enforcement and prosecutorial authorities, concerning alleged, actual, or attempted voting and/or election fraud occurring within the State of Texas from January 1, 2000 to the present, including, but not limited to

- a. alleged voter impersonation (including in-person voter impersonation), mail-in ballot fraud, voting by non-citizens, or other instances of illegal voting or obstruction of voting in violation of the Texas Election or Penal Code, or any other applicable law;
- b. the date(s), election, person(s) involved, nature of offense, and location of such instances of voting or election fraud; and,
- c. the ultimate findings and/or disposition of any such complaints, allegations, referrals, investigations, or prosecutions.

- **Topic 2: OAG designated Mr. Mitchell for 2. OAG Objections at 6.**

Topic 2: Any and all guidelines, regulations, policies and procedures relating to the handling, referral, investigation, and prosecution of incidents of alleged, actual, or attempted voting and/or election fraud, including any documents, policies, manuals, presentations, or other material prepared for training individuals acting under the purview of the Texas Attorney General's office or for training local, county, or municipal law enforcement and prosecutorial authorities.

- **Topic 3: OAG designated Mr. Mitchell for 3(b)-(c). OAG Objections at 7.**

Topic 3: Any human, financial, and/or other resources devoted by the Texas Attorney General's office to investigating, pursuing, and/or prosecuting voting and/or election fraud from January 1, 2000 to the present, including, but not limited to

...

- b. the number of investigators, law enforcement officials, or other individuals assigned to investigate or otherwise combat instances of voting and/or election fraud; and,
- c. any assistance or grants received from other Texas or federal entities for such purpose.

- **Topic 4: OAG designated Mr. Mitchell for 4. OAG Objections at 8.**

Topic 4: Any and all analyses, manuals, studies, databases, or spreadsheets concerning voting and/or election fraud, including, but not limited to, voter impersonation (including in-person voter impersonation), mail-in ballot fraud, voting by non-citizens, or other instances of illegal voting or obstruction of voting in violation of the Texas Election or Penal Code, or any other applicable law.

- **Topic 5: OAG designated Mr. Mitchell "limited to referrals received by Nonparty from the Texas Secretary of State." OAG Objections at 10.**

Topic 5: Any and all communications, discussions, collaborations, coordination, documents, or correspondence from January 1, 2002 to the present with the Governor's office, the Lieutenant Governor's office, the Texas Secretary of State, the Department of Public Safety, the Public Safety Commission, or other entity within the executive branch of the state of Texas concerning:

- a. voter impersonation (including in-person voter impersonation), mail-in ballot fraud, voting by non-citizens, or other instances of illegal voting or obstruction of voting in violation of the Texas Election or Penal Code, or any other applicable law;
- b. guidelines, regulations, policies, and procedures put forth by other state agencies relating to the manner in which elections are held or voting is conducted within the state of Texas;
- c. prospective or enacted legislation concerning enhanced procedures for voter identification, including, but not limited to, S.B. 14 (2011), S.B. 362 (2009), H.B. 218 (2007), or H.B. 1706 (2005), and,
- d. the implementation.

- **Topic 6: OAG designated Mr. Mitchell "limited to Nonparty's responses to requests for referrals and case information from Legislators." OAG Objections at 11-12.**

Topic 6: Any and all communication, discussion, collaboration, coordination, documents, or correspondence from January 1, 2000 to the present with members of the Texas Legislature or their staff, including, but not limited to, caucuses, committees, or entities within the legislative branch of the state of Texas, concerning:

- a. voter impersonation (including in-person voter impersonation), mail-in ballot fraud, voting by non-citizens, or other instances of illegal voting in violation of the Texas Election and Penal Code, or any other applicable law;
- b. guidelines, regulations, policies, and procedures put forth by other state agencies relating to the manner in which elections are held or voting is conducted within the state of Texas;
- c. prospective or enacted legislation relating to enhanced procedures for voter identification, including, but not limited to, S.B. 14 (2011), S.B. 362 (2009), H.B. 218 (2007), or H.B. 1706 (2005);
- d. the implementation of procedures for voter identification, including, but not limited to, S.B. 14 (2011); and,
- e. the enforceability of SB 14 following the U.S. District Court of the District of Columbia's decision to vacate its previous denial of preclearance to SB 14, *Texas v. Holder*, No. 12-cv-128 (D.D.C. Aug. 27, 2013), ECF No. 382.

- **Topic 9: OAG designated Mr. Mitchell “limited to Nonparty’s responses to requests for referrals and case information from Legislators.” OAG Objections at 15.**

All information, reports, studies, and data provided to or requested by the Texas legislature, whether directly or through a caucus, committee, other legislative entity, Texas agency or official, concerning S.B. 14 (2011), S.B. 362 (2009), H.B. 218 (2007), or H.B. 1706 (2005) during the consideration, preparation for implementation, or implementation of those bills.

II. MODIFICATIONS TO OAG’S DESIGNATED TOPICS BASED ON OUR MEET AND CONFER:

- **Topic 3(a):** OAG did not initially designate Mr. Mitchell for 3(a). We discussed a compromise that Mr. Mitchell could be asked questions about documents already produced that bear on the issue of the “budget and other monetary resources devoted to investigate or otherwise combat voting and/or election fraud.” *See, e.g.*, TEX00296941.
- **Topic 7:** OAG did not initially designate Mr. Mitchell for 7. We discussed a compromise that Mr. Mitchell could be asked questions about “communications, correspondence, coordination by SIU with non-governmental organizations or citizens concerning alleged instances of voting and election fraud.”

III. DOCUMENTS—BASED ON THE MEET AND CONFER, WE AGREED IN THEORY TO THE PRODUCTION OF THE FOLLOWING DOCUMENTS BEFORE THE DEPOSITION:

- Updated SIU hours and budget for the last two years [E.g., TEX0029641]
- Updated chart/spreadsheet of election and voting fraud cases, dated 2/18 [E.g., TEXIR00232]
- Organizational chart for SIU
- SIU budget or comparable documents for the last two years
- Public testimony/statements by Major Mitchell on election fraud or voting issues for the last two years/since the Section 5 deposition/testimony and AG press releases re: voter or election investigations/cases in that same time frame
- Policy statements or guidelines updating or comparable to the March 2007 guidelines already produced [TEX00296963]

- Reports similar to the 2007 report of investigations of election violations for the last 2 years [TEX00298938]
- Case documents for election cases closed after the Section 5 production or that were initiated and closed since Major Mitchell was last deposed/testified.

Kelly P. Dunbar | WilmerHale

1875 Pennsylvania Avenue NW

Washington, DC 20006 USA

+1 202 663 6262 (t)

+1 202 663 6363 (f)

kelly.dunbar@wilmerhale.com

Please consider the environment before printing this email.

This email message and any attachments are being sent by Wilmer Cutler Pickering Hale and Dorr LLP, are confidential, and may be privileged. If you are not the intended recipient, please notify us immediately—by replying to this message or by sending an email to postmaster@wilmerhale.com—and destroy all copies of this message and any attachments. Thank you.

For more information about WilmerHale, please visit us at <http://www.wilmerhale.com>.